

**REMARKS**

**Summary of the Final Office Action**

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over what the Examiner refers to as “Applicant’s Admitted Prior Art” (hereinafter “AAPA”) and further in view of Dapkus (U.S. Patent No. 6,621,842) (hereinafter “Dapkus”).

Claim 10, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

**Summary of the Response to the Office Action**

Applicants have amended independent claim 7 to include the features of dependent claim 10 in light of the Examiner’s indication of allowable subject matter in claim 10. Accordingly, claim 10 has been canceled without prejudice or disclaimer. Previously withdrawn claims 1-6 are canceled without prejudice or disclaimer to their possible presentation in a divisional application to be filed shortly based on this application. Previous withdrawn dependent claim 9 is requested to be rejoined into this application in light of its dependence on amended claim 7 which is now in *prima-facie* condition for allowance. Accordingly, claims 7-9 are currently pending with claims 7-9 currently under consideration.

**Rejections under 35 U.S.C. § 103(a) and Statement of Substance of Examiner**

**Interview of October 30, 2007**

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA and further in view of Dapkus. The Examiner is thanked for the indication that claim 10 would be allowable if rewritten in independent form. Accordingly, Applicants have amended independent claim 7 to include the features of dependent claim 10 in light of the Examiner's indication of allowable subject matter in claim 10. Accordingly, claim 10 has been canceled without prejudice or disclaimer.

Newly-amended independent claim 7 is thus now in prima-facie condition for allowance. Previous withdrawn dependent claim 9 is requested to be rejoined into this application in light of its dependence on amended claim 7. Claim 9 has also been amended to render it's features consistent with the newly-amended independent claim 7. Also, claim 8 is in condition for allowance at least because of their dependence from newly-amended independent claim 7, and the reasons set forth above.

Examiner Marcia Golub is thanked for the courtesies extended to Applicants' undersigned representative in a telephone conversation on October 30, 2007. Examiner Golub had initially contacted Applicants' undersigned representative by telephone in order to request a discussion of technical issues associated with the amendment to dependent claim 9 as filed on October 23, 2007 and Applicants' associated request that claim 9 be rejoined into this application.

Applicants' undersigned representative returned the Examiner's call on October 30, 2007 to discuss these issues. During the telephone interview on October 30, 2007, Applicants' undersigned representative explained that since claim 9 is dependent upon

allowable newly-amended claim 7, then claim 9 should be rejoined into this application and should also be allowed for at least the same reasons as it's independent claim 7.

Examiner Golub noted that claim 9 as filed on October 23, 2007 does not appear to be directed to the elected embodiment illustrated in Fig. 7 (species V) of this application. In particular, the Examiner noted that layers 52 and 53 in Fig. 7 did not appear to match particular features in the last two lines of claim 9 as filed on October 23, 2007. In the course of the October 30, 2007 telephone interview, Applicants' undersigned representative reached agreement with Examiner that claim 9 could be amended as implemented in the instant Replacement Amendment under 37 C.F.R. § 1.116 to be clearly directed to the elected embodiment of Fig. 7 (species V).

Examiner Golub expressed agreement to Applicants' undersigned representative that if claim 9 was amended concurrently being filed, then this application would be in condition for allowance. Accordingly, as Applicants have agreed to proceed with this amendment to claim 9 as discussed during the October 30, 2007 telephone interview, prompt issuance of a Notice of Allowance is respectfully requested.

### CONCLUSION

In view of the foregoing discussion, Applicants respectfully request the entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**DRINKER BIDDLE & REATH LLP**

Dated: November 6, 2007

By:



Paul A. Fournier  
Reg. No. 41,023

**Customer No. 055694**  
**DRINKER BIDDLE & REATH LLP**  
1500 K Street, N.W., Suite 1100  
Washington, DC 20005-1209  
Tel.: (202) 842-8800  
Fax: (202) 842-8465